

**SUBCHAPTER E: PUBLIC NOTICE OF OTHER SPECIFIC APPLICATIONS**

**§39.251, §39.253**

**Effective December 7, 2000**

**§39.251. Application for Injection Well Permit.**

(a) Applicability. This section applies to applications for injection well permits that are declared administratively complete before September 1, 1999. Any permit applications that are declared administratively complete on or after September 1, 1999 are subject to Subchapter L of this chapter (relating to Public Notice of Injection Well and Other Specific Applications).

(b) Preapplication local review committee process. If an applicant decides to participate in a local review committee process under Texas Health and Safety Code, §361.063, the applicant must submit a notice of intent to file an application to the executive director, setting forth the proposed location and type of facility. The applicant shall mail notice to the county judge of the county in which the facility is to be located. In addition, if the proposed facility is to be located in a municipality or the extraterritorial jurisdiction of a municipality, a copy of the notice shall be mailed to the mayor of the municipality.

(c) Notice of receipt of application. When the executive director receives an application for, or notice of intent to file an application, the chief clerk shall mail notice to the state senator and representative who represent the area in which the facility is or will be located.

(d) Notice of administratively complete application.

(1) The chief clerk shall mail notice to the School Land Board if the requirements of Texas Water Code, §5.115 apply concerning an application that will affect lands dedicated to the permanent school fund. The notice shall be in the form required by that section. The chief clerk shall also mail notice to the persons listed in §39.13 of this title (relating to Mailed Notice).

(2) For notice of administratively complete applications concerning Class I underground injection wells, the chief clerk shall also mail notice to:

(A) persons who own the property on which the existing or proposed injection well facility is or will be located, if different from the applicant;

(B) landowners adjacent to the property on which the existing or proposed injection well facility is or will be located;

(C) persons who own mineral rights underlying the existing or proposed injection well facility; and

(D) persons who own mineral rights underlying the tracts of land adjacent to the property on which the existing or proposed injection well facility is or will be located.

(3) After the executive director determines that the application is administratively complete, the executive director shall mail a copy of the application or a summary of its contents to the mayor and health authority of a municipality in whose territorial limits or extraterritorial jurisdiction the solid waste facility is located. The executive director shall also mail a copy of the application or a summary of its contents to the county judge and the health authority of the county in which the facility is located.

(e) Notice of draft permit.

(1) The applicant shall publish notice at least once in a newspaper of general circulation in the county in which the facility is located and in each county and area which is adjacent or contiguous to each county in which the facility is located.

(2) For Class I underground injection wells, the published notice must be at least 15 square inches (96.8 square centimeters) with a shortest dimension of at least 3 inches (7.6 centimeters) and the notice shall appear in the section of the newspaper containing state or local news items.

(3) The chief clerk shall mail notice to the persons listed in §39.13 of this title and to local governments located in the county of the facility. "Local governments" shall have the meaning provided for that term in Texas Water Code, Chapter 26.

(4) For notice of draft permits concerning Class I underground injection wells, the chief clerk shall also mail notice to:

(A) persons who own the property on which the existing or proposed injection well facility is or will be located, if different from the applicant;

(B) landowners adjacent to the property on which the existing or proposed injection well facility is or will be located;

(C) persons who own mineral rights underlying the existing or proposed injection well facility; and

(D) persons who own mineral rights underlying the tracts of land adjacent to the property on which the existing or proposed injection well facility is or will be located.

(5) If the application concerns a hazardous waste facility, the applicant shall broadcast notice under §39.5(h) of this title (relating to General Provisions).

(6) The notice shall specify the deadline to file public comment or hearing requests. The deadline shall be not less than 30 days after newspaper publication, and for hazardous waste applications, not less than 45 days after newspaper publication.

(f) Notice of public meeting.

(1) If the applicant proposes a new hazardous waste facility, the executive director shall hold a public meeting in the county in which the facility is to be located to receive public comment concerning the application. If the applicant proposes a major amendment of an existing hazardous waste facility permit, the executive director shall hold a public meeting if a person affected files with the chief clerk a request for public meeting concerning the application before the deadline to file public comment or hearing requests. A public meeting is not a contested case proceeding under the APA. A public meeting held as part of a local review committee process under subsection (b) of this section meets the requirements of this subsection if public notice is provided in accordance with this subsection.

(2) The applicant shall publish notice of the public meeting once each week during the three weeks preceding a public meeting under §39.5(g) of this title. The published notice shall not be smaller than 96.8 square centimeters or 15 square inches with the shortest dimension at least 7.6 centimeters or three inches.

(3) The chief clerk shall mail notice to the persons listed in §39.13 of this title.

(g) Notice of hearing.

(1) This subsection applies if an application is referred to SOAH for a contested case hearing under Chapter 80 of this title (relating to Contested Case Hearings).

(2) Newspaper notice.

(A) If the application concerns a facility other than a hazardous waste facility, the applicant shall publish notice at least once in a newspaper of general circulation in the county in which the facility is located and in each county and area which is adjacent or contiguous to each county wherein the proposed facility is located.

(B) For Class I underground injection wells, the published notice must be at least 15 square inches (96.8 square centimeters) with a shortest dimension of at least 3 inches (7.6 centimeters) and the notice shall appear in the section of the newspaper containing state or local news items.

(C) If the application concerns a hazardous waste facility, the hearing must include one session held in the county in which the facility is located. The applicant shall publish notice of the hearing once each week during the three weeks preceding the hearing under §39.5(g) of this title. The published notice shall not be smaller than 96.8 square centimeters or 15 square inches with the shortest dimension at least 7.6 centimeters or three inches. The notice shall appear in the section of the newspaper containing state or local news items. The text of the notice shall include the statement that at least one session of the hearing will be held in the county in which the facility is located.

(3) Mailed notice.

(A) For all applications concerning underground injection wells, the chief clerk shall mail notice to persons listed in §39.13 of this title.

(B) For notice of hearings concerning Class I underground injection wells, the chief clerk shall also mail notice to:

(i) persons who own the property on which the existing or proposed injection well facility is or will be located, if different from the applicant;

(ii) landowners adjacent to the property on which the existing or proposed injection well facility is or will be located;

(iii) persons who own mineral rights underlying the existing or proposed injection well facility; and

(iv) persons who own mineral rights underlying the tracts of land adjacent to the property on which the existing or proposed injection well facility is or will be located.

(C) If the applicant proposes a new solid waste management facility, the applicant shall mail notice to each residential or business address, not listed under subparagraph (A) of this paragraph, located within 1/2 mile of the facility and to each owner of real property located within 1/2 mile of the facility listed in the real property appraisal records of the appraisal district in which the facility is located. The notice shall be mailed to the persons listed as owners in the real property appraisal records on the date the application is determined to be administratively complete. The notice must be mailed no more than 45 days and no less than 30 days before the hearing. Within 30 days after the date of mailing, the applicant must file with the chief clerk an affidavit certifying compliance with its obligations under this subsection. Filing an affidavit certifying facts that constitute compliance with notice requirements creates a rebuttable presumption of compliance with this subsection.

(4) If the application concerns a hazardous waste facility, the applicant shall broadcast notice under §39.5(h) of this title.

(5) Notice under paragraphs (2)(A), (3), and (4) of this subsection shall be completed at least 30 days before the hearing.

(h) All published notices required by this section shall be in a form approved by the executive director prior to publication.

Adopted November 15, 2000

Effective December 7, 2000

**§39.253. Application for Production Area Authorization.**

(a) Applicability. This section applies to an application for a production area authorization under Chapter 331 of this title (relating to Underground Injection Control) that is declared administratively complete before September 1, 1999. Any permit application that is declared administratively complete on or after September 1, 1999 is subject to Subchapter L of this chapter (relating to Public Notice of Injection Well and Other Specific Applications).

(b) Notice of administratively complete application. The chief clerk shall mail notice to the persons listed in §39.13 of this title (relating to Mailed Notice).

(c) Notice of executive director's preparation of draft production area authorization. The chief clerk shall mail notice to the persons listed in §39.13 of this title. The notice shall specify the deadline to file with the chief clerk public comment, which is 30 days after mailing.

(d) Notice of hearing.

(1) This subsection applies if an application is referred to SOAH for a contested case hearing under Chapter 80 of this title (relating to Contested Case Hearings).

(2) The applicant shall publish notice at least once under §39.5(g) of this title.

(3) The chief clerk shall mail notice to the persons listed in §39.13 of this title.

(4) Notice under paragraphs (2) and (3) this subsection shall be completed at least 30 days before the hearing.

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Effective September 23, 1999

**Derivation Table**  
**Rule Log No. 96124-039-AD**

**Chapter 39 - Public Notice**

**Adopted December 4, 1996**  
**Effective January 8, 1997**

**Subchapter E : Public Notice of Other Specific Applications**

This table is to be used to track sections after rule revisions. The column on the left should list the sections after the revision. The column on the right should list where the section was before the revision.

<b>New Section</b>	<b>Old Section</b>
39.251 (a)	New
39.251 (b)	New
39.251 (c)	305.103
39.251 (d)	305.102(a), 305.103, 305.104
39.251 (e)	305.102(a), 305.103
39.251 (f)	305.102(a), 305.102(c), 305.103(b), 305.103(d), 305.104
39.253 (a)	305.94
39.253 (b)	305.94
39.253 (c)	305.94
39.253 (d)	305.94, 305.102(a), 305.103(b)